

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, and )  
JOHN MEINERS, individually and on )  
behalf of all others similarly situated, )  
Plaintiffs, )

v. )

NATIONAL ASSOCIATION OF )  
REALTORS, COMPASS, INC., EXP )  
WORLD HOLDINGS, INC., REDFIN )  
CORPORATION, WEICHERT )  
REALTORS, UNITED REAL ESTATE, )  
HOWARD HANNA REAL ESTATE )  
SERVICES, and DOUGLAS ELLIMAN, )  
INC. )  
Defendants. )

Case No. 4:23-cv-00788-SRB

Honorable Judge Bough

**DEFENDANT DOUGLAS ELLIMAN INC.'S MOTION TO DISMISS  
PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE 12(b)(2) AND 12(b)(3)  
FOR LACK OF PERSONAL JURISDICTION AND IMPROPER VENUE**

Pursuant to Federal Rule of Civil Procedure 12(b)(2) and 12(b)(3), and in accordance with the scheduling Order of this Court, Defendant Douglas Elliman Inc. ("DEI"), by and through its undersigned counsel, moves to dismiss the Class Action Complaint ("Complaint") filed by Plaintiffs Don Gibson, Lauren Criss and John Meiners, individually and on behalf of all others similarly situated (collectively, "Plaintiffs"), for lack of personal jurisdiction and improper venue. The Court lacks personal jurisdiction over DEI under both the Missouri long-arm statute, Mo. Rev. Stat. § 506.500.1, and Section 12 of the Clayton Act, 15 U.S.C. § 22, and venue is further improper under that statute and the general venue statute, 28 U.S.C. § 1391. In support of this motion, DEI relies upon Defendant Douglas Elliman Inc.'s Suggestion in Support of Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(3) for Lack of Personal Jurisdiction and Improper Venue and the Declaration of James Bryant Kirkland III, both of which

are filed contemporaneously herewith and incorporated by reference. DEI also relies on the pleadings and records on file with this Court, any other motions to dismiss and suggestions in support of same concurrently filed by any other defendant in this action, and such argument as may be presented at any hearing on this motion.

As further set forth in DEI's Suggestion in Support of Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(3) for Lack of Personal Jurisdiction and Improper Venue, Plaintiffs cannot establish personal jurisdiction over DEI under the Missouri long-arm statute because DEI is not subject to general or specific jurisdiction in Missouri. DEI simply has no contacts with the State of Missouri whatsoever, let alone continuous and systematic contacts necessary to subject DEI to general jurisdiction, or purposeful contacts relating specifically to Plaintiffs' claims against DEI necessary to create specific jurisdiction. For the same reasons, Plaintiffs also cannot establish personal jurisdiction under Section 12 of the Clayton Act because DEI does not transact any business, let alone substantial business, in this District, nor did any portion, let alone a substantial portion, of the events giving rise to Plaintiffs' claims specifically against DEI occur in this District. Venue is also improper in this District because Plaintiffs cannot demonstrate that DEI transacts substantial business here, or that a substantial part of the events giving rise to Plaintiffs' claims against DEI specifically arose here. For all of these reasons, DEI is not subject to personal jurisdiction in Missouri or in this District, and Plaintiffs' Complaint should be dismissed.

Respectfully submitted,

**KASOWITZ BENSON TORRES LLP**

/s/ Marc E. Kasowitz

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## **CERTIFICATE OF SERVICE**

The undersigned certifies that on the 26th day of February, 2024, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will provide an electronic copy to the following:

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